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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/540,400	03/31/2000	Frans Lodewijk Plantenga	ACH2696	2198

7590

02/24/2004

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EXAMINER

GRIFFIN, WALTER DEAN

ART UNIT

PAPER NUMBER

1764

DATE MAILED: 02/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/540,400

Applicant(s)

PLANTENGA ET AL.

Examiner

Walter D. Griffin

Art Unit

1764

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 09 February 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

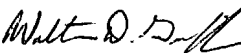
Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: _____

Claim(s) withdrawn from consideration: _____

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☐ Other: _____


Walter D. Griffin
Primary Examiner
Art Unit: 1764

Continuation of 5. does NOT place the application in condition for allowance because: of the following reasons. The argument that the Yamaguchi reference is drawn to a conventional HDS process that is unlike the HDS process claimed is not persuasive because nowhere does Yamaguchi disclose that the catalyst is effective only for conventional HDS processes. In fact, Yamaguchi discloses in column 1, lines 38-42 that it has been noticed that the conventionally prepared catalysts cannot satisfactorily meet an ever growing demand on reducing the levels of sulfur and nitrogen compounds in the heavy oils or the like. Therefore, Yamaguchi does not consider the disclosed catalysts to be conventional and suggests that deeper desulfurization and denitrogenation can be achieved through the use of the catalyst in a hydrotreating process. This teaching appears to contradict applicants' argument that the Yamaguchi process is drawn to a conventional HDS process. It is certainly not clear that the claimed ultra-deep HDS is any different from the HDS disclosed by Yamaguchi.

The argument that Yamaguchi does not prefer the use of nickel in the catalyst is not persuasive. A reference is not limited solely to its preferred embodiments.

The argument that there would be no expectation of success in combining the EP and Yamaguchi references is not persuasive. Yamaguchi teaches that the activity of Group VI/VIII metal catalysts is increased with the inclusion of organic additives in the catalyst. Therefore, the examiner maintains that one having ordinary skill in the art would add the organic additives to the catalysts of the EP reference with the expectation of increased activity..